

(b) All agreements between or among wholly-owned subsidiaries and/or their parent are exempt from the filing requirements of the Act and this part.

(c) Ocean common carriers are exempt from section 10(c) of the Act to the extent that the concerted activities proscribed by that section result solely from agreements between or among wholly-owned subsidiaries and/or their parent.

(d) The filing fee for optional filing of these agreements is provided in § 535.401(g).

**§ 535.308 Marine terminal agreements—exemption.**

(a) *Marine terminal agreement* means an agreement, understanding, or association written or oral (including any modification or appendix) that applies to future, prospective activities between or among the parties and that relates solely to marine terminal facilities and/or services among marine terminal operators and among one or more marine terminal operators and one or more ocean common carriers that completely sets forth the applicable rates, charges, terms and conditions agreed to by the parties for the facilities and/or services provided for under the agreement. The term does not include a joint venture arrangement among marine terminal operators to establish a separate, distinct entity that fixes its own rates and publishes its own tariff.

(b) *Marine terminal conference agreement* means an agreement between or among two or more marine terminal operators and/or ocean common carriers for the conduct or facilitation of marine terminal operations that provides for the fixing of and adherence to uniform maritime terminal rates, charges, practices and conditions of service relating to the receipt, handling, and/or delivery of passengers or cargo for all members.

(c) *Marine terminal discussion agreement* means an agreement between or among two or more marine terminal operators and/or marine terminal conferences and/or ocean common carriers solely for the discussion of subjects including marine terminal rates, charges, practices, and conditions of service re-

lating to the receipt, handling and/or delivery of passengers or cargo.

(d) *Marine terminal interconference agreement* means an agreement between or among two or more marine terminal conference and/or marine terminal discussion agreements.

(e) All marine terminal agreements, as defined in § 535.308(a), with the exception of marine terminal conference, marine terminal interconference, and marine terminal discussion agreements as defined in § 535.308(b), (c), and (d), are exempt from the waiting period requirements of the Act and this part and will, accordingly, be effective on filing with the Commission.

(f) The filing fee for marine terminal agreements is provided in § 535.401(g).

**§ 535.309 Marine terminal services agreements—exemption.**

(a) *Marine terminal services agreement* means an agreement, contract, understanding, arrangement, or association, written or oral, (including any modification or appendix) between a marine terminal operator and an ocean common carrier that applies to marine terminal services that are provided to and paid for by an ocean common carrier. These services include: checking, dockage, free time, handling, heavy lift, loading and unloading, terminal storage, usage, wharfage, and wharf demurrage and including any marine terminal facilities that may be provided incidentally to such marine terminal services. The term *marine terminal services agreement* does not include any agreement that conveys to the involved carrier any rights to operate any marine terminal facility by means of a lease, license, permit, assignment, land rental, or similar other arrangement for the use of marine terminal facilities or property.

(b) All marine terminal services agreements as defined in § 535.309(a) are exempt from the filing and waiting period requirements of the Act and this part on condition that:

(1) They do not include rates, charges, rules, and regulations that are determined through a marine terminal conference agreement, as defined in § 535.308(b); and

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(2) No antitrust immunity is conferred under the Act with regard to terminal services provided to an ocean common carrier under a marine terminal services agreement that is not filed with the Commission.

(c) The filing fee for optional filing of terminal services agreements is provided in § 535.401(g).

### § 535.310 Marine terminal facilities agreement—exemption.

(a) *Marine terminal facilities agreement* means any agreement between or among two or more marine terminal operators, or between one or more marine terminal operators and one or more ocean common carriers, to the extent that the agreement involves ocean transportation in the foreign commerce of the United States, that conveys to any of the involved parties any rights to operate any marine terminal facility by means of lease, license, permit, assignment, land rental, or other similar arrangement for the use of marine terminal facilities or property.

(b) All marine terminal facilities agreements as defined in § 535.310(a) are exempt from the filing and waiting period requirements of the Act and this part.

(c) Parties to marine terminal facilities agreements currently in effect shall provide copies to any requesting party for a reasonable copying and mailing fee.

(d) The filing fee for optional filing of terminal facilities agreements is provided in § 535.401(g).

### § 535.311 Low market share agreements—exemption.

(a) Low market share agreement means any agreement among ocean common carriers which contains none of the authorities listed in § 535.502(b) and for which the combined market share, based on cargo volume, of the parties in any of the agreement's sub-trades is either:

(1) Less than 30 percent, if all parties are members of another agreement in the same trade or sub-trade containing any of the authorities listed in § 535.502(b); or

(2) Less than 35 percent, if at least one party is not a member of another

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agreement in the same trade or sub-trade containing any of the authorities listed in § 535.502(b).

(b) Low market share agreements are exempt from the waiting period requirement of the Act and this part, and are effective on filing.

(c) Parties to agreements may seek a determination from the Director, Bureau of Trade Analysis, as to whether a proposed agreement meets the general definition of a low market share agreement.

(d) The filing fee for low market share agreements is provided in § 535.401(g).

[69 FR 64414, Nov. 4, 2004, as amended at 70 FR 20303, Apr. 19, 2005]

### § 535.312 Vessel charter party-exemption.

(a) For purposes of this section, vessel charter party shall mean a contractual agreement between two ocean common carriers for the charter of the full reach of a vessel, which agreement sets forth the entire terms and conditions (including duration, charter hire, and geographical or operational limitations, if any) under which the vessel will be employed.

(b) Vessel charter parties, as defined in paragraph (a) of this section, are exempt from the filing requirements of the Act and this part.

(c) The filing fee for optional filing of vessel charter parties is provided in § 535.401(g).

## Subpart D—Filing of Agreements

### § 535.401 General requirements.

(a) All agreements (including oral agreements reduced to writing in accordance with the Act) subject to this part and filed with the Commission for review and disposition pursuant to section 6 of the Act, shall be submitted during regular business hours to the Secretary, Federal Maritime Commission, Washington, DC 20573. Such filing shall consist of:

(1) A true copy and seven additional copies of the executed agreement;

(2) Where required by this part, an original and five copies of the completed Information Form referenced at subpart E of this part; and